

budget year and the applicable four or nine outyears, OMB is to enter the annual average budgetary effect associated with PAYGO legislation. For instance, a bill that pays for itself over ten years will have a total, and thus average, score of zero, so zero would be entered in each column of the ten-year PAYGO scorecard. If a bill enacted in FY10 costs a net of \$10 billion over FY2010–FY2020, OMB would insert +\$1 billion in each of the ten columns on the PAYGO ledger (FY11 through FY20). The same PAYGO legislation could well have different averages over five years and over ten. For example, if a bill enacted this session costs \$2 billion through 2015 and \$10 billion through 2020, the five-year scorecard would record entries of \$0.4 billion for each of 2011 through 2015, while the ten-year scorecard would record entries of \$1 billion for each of 2011 through 2020.

(g) *Emergency Legislation.* If legislation subject to PAYGO contains an emergency designation, the budgetary effects of provisions that are designated as emergencies shall not be placed on the PAYGO scorecards by OMB. The designation should refer to subsection (g)(1) of this Act. The procedure for challenging a statutory emergency designation for PAYGO enforcement reflects the current practices for challenging emergency designations under Congressional budget rules. In the Senate, an emergency designation is subject to a point of order that may be waived upon a vote of 3/5 of the members duly chosen and sworn. If the Senate does not waive this point of order, the emergency designation is struck from the legislation. Both this section of this Act and clause 10 of rule XXI of the Rules of the House of Representatives require the Chair to put the question of consideration with respect to a measure containing a provision expressly designated as an emergency for the purposes of pay-as-you-go requirements. As a result of this duplication of nearly identical requirements, the two should be interpreted to merge and thereby require the Chair to put just one question of consideration in satisfaction of both requirements.

Section 5—*Annual Report and Sequestration Order:* Section 5 defines the timing of the annual PAYGO report and, if one is needed, the sequestration order. OMB is to produce an annual PAYGO report, which shall include up-to-date PAYGO scorecards and a description of any sequestration if required. The report is to be released no more than 14 days (excluding weekends and legal holidays) after Congress adjourns to end a session.

If the annual report shows a debit (i.e., net budgetary cost) on either PAYGO scorecard for the budget year, the President is required to issue an order sequestering budgetary resources from non-exempt mandatory programs sufficient to fully pay off that debit. If it shows a debit on both the five-year and ten-year scorecards, the sequestration must pay off the larger debit. If the President issues this order, then the PAYGO annual report must contain its details, including such information as the outlay reductions that would occur in the budget year and the subsequent fiscal year for each affected account.

Because the PAYGO statute creates a permanent law, the two scorecards are permanent. In effect, they will record all PAYGO legislation enacted from the date the bill becomes law. The cost estimates of individual PAYGO bills, however, will eventually slide off the scorecards since only the five-year or ten-year costs are recorded on those scorecards. For example, a PAYGO bill enacted later this year will show cost or savings entries of the same size (the average amount through 2015) for each fiscal year 2011 through 2015 on the five-year scorecard. Next year, new PAYGO legislation will add entries

to the five-year scorecard covering years 2012–2016. The entries made this year in the 2012–2015 columns of that scorecard will remain on that scorecard, however. If those entries are net savings, the savings will be available to cover costs in new legislation, but if they are net debits, avoiding a sequestration at the end of each of the next four sessions of Congress will require that the net debits be worked off by the enactment of new offsetting savings. The same approach applies to the ten-year scorecard.

Section 6—*Calculating a Sequestration:* Section 6 describes how sequestration is to be implemented if triggered. Many mandatory programs, such as Social Security, veterans' disability and other benefits, and major low-income entitlements, such as Supplemental Security Income and Medicaid, are totally exempt from sequestration. Only programs in the unified budget are subject to sequestration.

With the exception of Medicare, non-exempt mandatory programs would be cut by a uniform percent, such that the outlay savings produced in the budget year and the subsequent fiscal year would be sufficient to fully offset the budget-year debit on the PAYGO ledger. Medicare can be cut by no more than four percent. If a larger cut is needed to offset the debit on the PAYGO ledger, the uniform percentage cut to the other non-exempt mandatory programs would be increased so that the sequester of Medicare and the other non-exempt programs would together produce sufficient savings to offset the budget-year debit. Sequestrations are temporary, not permanent, and with a few exceptions occur only in the budget year.

For most non-exempt mandatory programs, the uniform sequestration percentage reduces budgetary resources by a specified percent over the course of the entire fiscal year. If a sequestration starts a month or more into the fiscal year because Congress adjourns in November or December, then the reduction during the remaining 9, 10, or 11 months of the fiscal year will be larger than the uniform percentage so that the average sequestration over the year equals the required uniform percentage.

In the case of Medicare, the sequestration lasts for a full 12 months even if it takes effect after the beginning of the fiscal year, in which case it will run into the start of the next fiscal year. This means the uniform percentage cut in payments to providers or insurance plans will not be higher at any time than the four-percent limit (or the calculated uniform percentage, if lower).

In the case of price support payments for crops, the sequestration for any given crop will start at the beginning of the next crop year. As a consequence, sequestrations for crops will not all be running concurrently, and some sequestrations may occur partly in the following fiscal year.

Section 7—*Adjustments for Certain Current Policies:*

(a) *Purpose.* Section 7 establishes a temporary rule to adjust the estimates of the budgetary effects of PAYGO legislation in four policy areas: Medicare physician payments, the estate tax, the Alternative Minimum Tax, and the 2001 and 2003 income tax cuts for the middle class. In each of these areas, current policies have either expired at the end of 2009 or will expire by the end of 2010. This section allows for an adjustment so that the cost of extending specified individual policies for a defined period (two years for estate tax and AMT, five years for Medicare physician payments, and permanently for the middle-class tax cuts) is not counted for statutory PAYGO purposes.

This scoring rule applies only for the purposes of statutory PAYGO. For other pur-

poses, including the Congressional Budget Act and the congressional PAYGO rules, existing scoring rules and points of order apply.

General approach. The statute authorizes a maximum adjustment to the estimate of budgetary effects of PAYGO legislation in the four specified policy areas equal to the difference between:

The cost of continuing a specified policy under current law as of December 31, 2009, consistent with baseline calculations under section 257 of BBEDCA, which, for each of the four policy areas, would assume that the specified policy has expired (AMT and estate tax), or will expire by the end of 2010 (all other policies); and

The projected cost of the specified policy assuming the policy continues beyond its scheduled expiration date.

The cost of continuing these policies over the specified period is larger than the cost of letting them expire, as would happen under current law. The adjustment allows Congress to address these policies without having the cost added to the PAYGO scorecard. The difference between these two estimated costs is the maximum adjustment that may be used to offset the cost of legislation addressing each specified policy for the purposes of PAYGO enforcement. If the estimate of the legislation has a greater budgetary effect than the maximum amount of the adjustment, then the adjustment can be used to offset a portion of its cost. The additional cost would be counted for statutory PAYGO purposes. If a less costly policy is enacted, any remaining amount in the adjustment cannot be used to offset the cost of policies in other areas (as specified in Section 4(c)(3) of the PAYGO statute).

In addition, the adjustments in each policy area are further limited to prevent using the full amount of the available adjustment to offset the cost of a more generous policy for a shorter period. Under this limitation, the amount of the adjustment is estimated consistent with the time period covered by the eligible policy action.

Duration. This section expires on December 31, 2011, so any policies eligible for an adjustment must be enacted by that time in order to receive the adjustment.

(c)-(f) *Policy areas eligible for adjustment.* For statutory PAYGO purposes, legislation addressing four policy areas qualifies for a current policy adjustment to the estimate of that legislation's budgetary effects.

(c) *Medicare Physician Payments.* Under current law, the Sustainable Growth Rate (SGR) formula requires physician payments under Medicare part B to be cut automatically by over 21 percent after February 28, 2010. Section 7(c) provides a maximum adjustment equal to the difference between the cost of freezing through December 31, 2014, the Medicare Part B payment rates to physicians at the 2009 rate, and the cost of allowing the automatic cuts to occur after February 28, 2010. Legislation providing relief from the scheduled SGR cut—including legislation that reforms or supersedes the SGR formula—would only be scored for PAYGO purposes to the extent that it costs more than this five-year freeze at 2009 levels. If legislation to reform or supersede the SGR formula through or beyond 2014 is enacted that costs less than a five-year freeze in the years through 2014, any remaining amount in the adjustment could be used to offset costs of that policy after 2014, but the total adjustment cannot exceed the maximum adjustment amount of a five-year SGR freeze.

Estate and gift tax. Under EGTRRA, the estate tax exemption was gradually increased and the tax rate gradually lowered so that by 2009, the exemption level was \$3.5 million for an individual, with amounts